

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

High-Cost Universal Service Support

Federal-State Joint Board on Universal  
Service

WC Docket No. 05-337

CC Docket No. 96-45

**COMMENTS OF THE RURAL TELECOMMUNICATIONS ASSOCIATIONS  
CONSISTING OF  
THE COLORADO TELECOMMUNICATIONS ASSOCIATION,  
THE OREGON TELECOMMUNICATIONS ASSOCIATION AND  
THE WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION**

**April 17, 2008**

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## SUMMARY

The Rural Telecommunications Associations welcome the opportunity to submit comments to the Federal Communications Commission as the Commission considers potential modifications to the existing universal service support mechanisms. It is widely accepted that some set of reforms to the existing universal service mechanisms are needed. The Rural Telecommunications Associations agree.

The Rural Telecommunications Associations have long advocated elimination of the identical support rule. The Rural Telecommunications Associations appreciate the position adopted by the Federal-State Joint Board on Universal Service ("Joint Board") that the identical support rule be eliminated. The Rural Telecommunications Associations urge that the Commission follow that recommendation and eliminate the identical support rule. Further, the Rural Telecommunications Associations support the tentative conclusions reached by the Commission that competitive eligible telecommunications carriers ("competitive ETCs" or "CETCs") would no longer be eligible to receive Interstate Access Support ("IAS"), Interstate Common Line Support ("ICLS") and Local Switching Support ("LSS"). Removing IAS, ICLS and LSS from the calculation of CETC support is an important interim step in controlling the size and rate of growth in the universal service support mechanisms. As the Commission recognized in its NPRM FCC 08-04, the source of the recent growth in the size of universal service support mechanism has been support going to CETCs.

The Rural Telecommunications Associations have previously cautioned against broad adoption of the reverse auction concept. The Rural Telecommunications Associations are concerned that reverse auctions may run afoul of the requirements of Section 254 that support be sufficient and predictable. There are a myriad of administrative problems that are associated

with reverse auctions. If reverse auctions are going to be used at all, they should be first used in a pilot program, such as with the Broadband Fund proposed by the Joint Board for funding construction of broadband facilities in areas without broadband access.

The Joint Board's recommendations are worth serious consideration. However, the Rural Telecommunications Associations are concerned about the lack of detail on how a Broadband Fund would work. The Rural Telecommunications Associations support the separation of wireless support out of existing support mechanisms and the creation of a new wireless or mobility program. The Rural Telecommunications Associations support the recommendation to have a separate Provider of Last Resort Fund, but disagree with the recommendation of a hard cap on the fund.

## **I. INTRODUCTION**

On January 29, 2008, the Commission issued a trilogy of Notices of Proposed Rulemaking. In the Notice under FCC 08-04, the Commission called for comment on CETC support. Specifically, the Commission reached a tentative conclusion that it should remove the identical support rule and that CETCs would no longer receive IAS, ICLS and LSS support. In FCC 08-05, the Commission called for comments on the use of reverse auctions. In FCC 08-22, the Commission called for comment concerning the Joint Board's recommendations that were released November 20, 2007, under FCC 07J-4. The Rural Telecommunications Associations welcome the opportunity to provide comments on these very important issues addressing possible modifications to existing universal service support mechanisms.

The Rural Telecommunications Associations consist of the Colorado Telecommunications Association, Oregon Telecommunications Association and the Washington Independent Telephone Association. The members of these associations<sup>1</sup> have long provided state-of-the-art telecommunications service in very rural areas in the western United States. Most of the member companies have deployed broadband availability reaching very high percentages of the customers that they serve. For most of the member companies, universal service support is a critical contributor to their ability to successfully provide, maintain and evolve state-of-the-art telecommunications service to rural customers.

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<sup>1</sup> The members of each of the associations that are participating in these Comments are set out on Appendix 1.

## II. REFORM OF CETC SUPPORT

### A. Elimination of the “Identical Support” Rule.

In FCC 08-4, the Commission has called for comments on several items related to modification of the basis of support for CETCs. Foremost among the proposals is the tentative conclusion to eliminate the identical support rule.<sup>2</sup> The Rural Telecommunications Associations have long supported elimination of the identical support rule.<sup>3</sup> The Rural Telecommunications Associations continue to urge the Commission to remove the identical support rule. Removal of the identical support rule is a major step forward in controlling the rapid growth in the size of the universal service fund.

The Commission correctly defines the issue in its finding that the recent growth in the size of the universal service fund is due in no small part to CETCs receiving support based on the “identical support” rule:

In recent years, this growth has been due to increased support provided to competitive ETCs, which receive high-cost support based on the per-line support that the incumbent LECs receive, rather than on the competitive ETCs’ own costs. While support to incumbent LECs has been flat, or has even declined since 2003, competitive ETC support, in the six years from 2001 to 2006, has grown from under 17 million to 980 million – an annual growth rate of over one hundred percent. (Footnotes omitted.)<sup>4</sup>

In FCC 08-4, the Commission also correctly notes that wireless carriers rather than wireline competitive LECs receive a majority of competitive ETC designations, serve a majority of competitive ETC lines and have received a majority of competitive ETC support. However, as the Commission notes, wireless competitive ETCs do not capture lines from the incumbent LEC to become a customer’s sole service provider as a general rule.<sup>5</sup>

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<sup>2</sup> FCC 08-4 at ¶1.

<sup>3</sup> See, FCC 08-4 at Footnote 33.

<sup>4</sup> FCC 08-4 at ¶4.

<sup>5</sup> FCC 08-4 at ¶9.

The Commission correctly identifies the perverse incentives created by the identical support rule when the Commission states:

Because a competitive ETC's per-line support is based solely on the per-line support received by the incumbent LEC, rather than its own network investments in an area, the competitive ETC has little incentive to invest in, or expand, its own facilities in areas with low population densities, thereby contravening the Act's universal service goal of improving access to telecommunications services in rural, insular and high-cost areas. Instead, competitive ETCs have a greater incentive to expand the number of subscribers, particularly those located in the lower-cost parts of high-cost areas, rather than to expand the geographic scope of their networks. (Footnote omitted.)<sup>6</sup>

For all of these reasons, the Rural Telecommunications Associations urge the Commission to move forward by eliminating the "identical support" rule.

B. Use of Cost Support.

If the identical support rule is removed, that suggests that competitive ETCs must file cost data. This is the tentative conclusion reached by the Commission.<sup>7</sup> The Rural Telecommunications Associations support this conclusion.

Incumbent LECs submit their cost data at the federal level. The Rural Telecommunications Associations believe the same process should be followed for competitive ETCs. Wireless carriers should be required to fulfill the same degree of accountability to demonstrate how they spend high-cost funds as incumbent local carriers do today.

C. Disaggregation.

The Commission called for comment on the level of disaggregation of a competitive ETC's costs.<sup>8</sup> The Rural Telecommunications Associations note that wireless CETCs have

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<sup>6</sup> FCC 08-4 at ¶10.

<sup>7</sup> FCC 08-4 at ¶13.

<sup>8</sup> FCC 08-4 beginning at ¶16.

advocated that ILECs disaggregate their support to at least the wire center level.<sup>9</sup> Where this has occurred, it has imposed additional costs on incumbent LECs, with little or no concomitant benefit in many cases. At this stage, the Rural Telecommunications Associations will refrain from using a tit-for-tat approach.

It would appear that the minimal level of disaggregation that is needed to generate useful information would be to disaggregate to the level of the wireless carrier's licensed area; for example, the license held in a specific Metropolitan Statistical Area or Rural Statistical Area. If a separate wireless fund (e.g., the Joint Board's Mobility Fund) is created, this appears to be the minimally acceptable level of disaggregation.

D. Elimination of IAS, ICLS and LSS Support for CETCs.

The Rural Telecommunications Associations support the Commission's tentative conclusion that competitive ETCs should no longer receive IAS, ICLS or LSS support. The Rural Telecommunications Associations agree with the Commission that permitting CETCs to receive IAS, ICLS or LSS support is inconsistent with how CETCs recover their costs or set rates.<sup>10</sup> IAS, ICLS and LSS are mechanisms that were created through corresponding reductions in access charges. The wireless carriers, along with wireline interexchange carriers, have received the benefit of the reduction in access charges. For incumbent local exchange carriers (ILECs), these funding mechanisms were designed to keep the ILECs whole by offsetting the lost access revenue. This is not a source of new money for ILECs. However, it has been a source of new money, a windfall, for competitive ETCs.

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<sup>9</sup> See, e.g., positions taken by Rural Cellular Corporation and United States Cellular Corporation in Oregon Public Utility Commission Docket No. UM 1280.

<sup>10</sup> FCC 08-4 at ¶23.

### III. REVERSE AUCTIONS

In FCC 08-5, the Commission tentatively concludes that reverse auctions offer several potential advantages over current high-cost support distribution mechanisms and that the Commission should develop an auction mechanism to determine high-cost universal service support.<sup>11</sup> The Rural Telecommunications Associations have previously commented that the potential use of reverse auctions raises a host of administrative problems.<sup>12</sup> What this means is that the devil is in the details in evaluating reverse auction proposals.

Further, the Rural Telecommunications Associations have previously expressed concern, and remain concerned, that reverse auctions will not meet Section 254 requirements that universal service support be sufficient and predictable.<sup>13</sup> An auction process can have the predilection to violate both of these tenants.

In commenting on an earlier proposal by the Joint Board, the Rural Telecommunications Associations pointed out that the specific stalking horse for reverse auctions proposed by the Joint Board raised a number of questions. One was the fact that an auction that would have a winner for ten years (or any specific period of years) might not be consistent with the provision of support that is specific, predictable and sufficient as required by 47 U.S.C. §254(b)(5).<sup>14</sup> Even a ten year term for an auction winner is not consistent with regulatory and accounting views as to how to measure the life of outside plant, which is one of the major investment drivers in rural telephony. Telecommunications networks require extensive investment in long-lived assets and

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<sup>11</sup> FCC 08-5 at ¶1.

<sup>12</sup> See, e.g., Opening Comments of the Montana Telecommunications Association, Oregon Telecommunications Association Small Company Committee and the Washington Independent Telephone Association filed October 10, 2006, and Reply Comments filed November 8, 2006.

<sup>13</sup> 47 U.S.C. §254(b)(5), "There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service."

<sup>14</sup> See, e.g., Opening Comments of the Montana Telecommunications Association, Oregon Telecommunications Association Small Company Committee and the Washington Independent Telephone Association filed October 10, 2006, and Reply Comments filed November 8, 2006.

infrastructure. In rural areas, the largest investment component is in outside plant. In many states, the depreciation life for outside plant approaches twenty years, not ten years.

In addition, funding mechanisms for rural telecommunications infrastructure development generally have loan terms in excess of ten years, whether through the Rural Utilities Service,<sup>15</sup> the National Rural Telecommunications Cooperative or CoBank ACB.

As the Commission itself describes, geographic scope of bidding is very much an open issue. While the Commission has tentatively concluded that the wireline incumbent LEC's study area is the appropriate geographic area on which to base reverse auctions, there are still some concerns stated by the Commission.<sup>16</sup> The Rural Telecommunications Associations call to the Commission's attention that the use of a county, an MSA or some other large geographic area would disenfranchise many rural telecommunications providers.

A. There are a Number of Significant Concerns that Have Been Raised About the Concept of Reverse Auctions.

The record in this proceeding to date, although extensive, appears inadequate to design a workable reverse auction system on a broad basis. The Commission has not explained how these problems have been overcome. Some parties submitting comments in prior rounds raised the basic questions of whether a reverse auction system would fit within the existing statutory scheme for universal service.<sup>17</sup> Many parties raised serious concerns about the effect that reverse auctions may have on the quality of service obligations.<sup>18</sup> In addition, substantial administrative problems were identified by many of the parties in prior comments.<sup>19</sup>

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<sup>15</sup> The United States Department of Agriculture's Rural Development Agency is also known as Rural Utilities Service.

<sup>16</sup> FCC 08-5 at ¶21.

<sup>17</sup> See, e.g., Comments of Rural Cellular Association at p. 9-11 submitted October 10, 2006; Comments of TDS Telecommunications Corp. at p. 9-11 submitted October 10, 2006.

<sup>18</sup> See, e.g., Comments of the Oklahoma Corporation Commission at p. 5-6 submitted October 10, 2006.

<sup>19</sup> See, e.g., Comments of CenturyTel, Inc. at p. 14-17 submitted October 10, 2006.

The administrative problems associated with reverse auctions and the questionable ability of reverse auctions to provide a key mechanism for high-cost support are addressed in detail in the prior comments of the National Telecommunications Cooperative Association and, in particular, in the paper of Professor Dale E. Lehman entitled “the Use of Reverse Auctions for Provision of Universal Service,” which is Attachment A to those Comments. As Professor Lehman points out:

Much of the theoretical appeal of reverse auctions is dissipated under the actual conditions under which universal service will be provided. Regulators will need more foresight than they would like. They will need to specify universal service requirements far enough into the future to allow for the required investment incentives. They will need to know more about the most efficient market structure (single COLR, multiple, which technology, etc.) than they would like.<sup>20</sup>

As Professor Lehman concludes, the devil is in the details.<sup>21</sup>

The Rural Telecommunications Associations agree that there are too many unanswered questions about reverse auctions. There also appear to be too many risks.

B. Reverse Auctions Risk Discouraging Investment in Rural Infrastructure.

The very real risk is that reverse auctions will discourage investment in rural America. Perhaps the most telling comments among those previously submitted came from two of the major sources of financing for rural infrastructure, CoBank and the Rural Telephone Finance Cooperative. In CoBank’s Comments, CoBank identified that it has 2.9 billion dollars in loan commitments to over two hundred rural communication companies nationwide.<sup>22</sup> CoBank pointed out that reverse auctions will have a negative affect on the cost of debt and availability of debt financing. CoBank described the problem as follows:

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<sup>20</sup> Attachment A to the National Telecommunications Cooperative Association Initial Comments submitted October 10, 2006 at p. 22-23.

<sup>21</sup> Ibid. at p. 24.

<sup>22</sup> Comments of CoBank, ACB at p. 2.

CoBank cautions the FCC on the use of auctions to determine high-cost universal service support funding (USF) to eligible telecommunications companies (ETCs) pursuant to Section 254 of the Communications Act of 1934. Reverse Auctions do not provide clarity in regard to federal cost recovery mechanisms to empower the best providers of basic and advanced telecommunications services in rural areas. Reverse auctions present more uncertainty because they are a risky approach to high-cost support, which will cause the cost of debt to increase. (Emphasis added.)<sup>23</sup>

CoBank concluded its discussion of reverse auctions as follows:

The result could be a failure for the rural ILEC to invest in advanced networks. Access to capital for these projects could disappear. This would threaten the 1996 Act's expanded definition of universal service if it removes the provider that is best positioned to develop these advanced services. This would be devastating for rural customers and businesses because their access to advanced information would be severely delayed if not impaired indefinitely. New FCC policies should spur the growth of broadband deployment, not inadvertently impede it.<sup>24</sup>

The prior comments of the Rural Telephone Finance Cooperative (RTFC) are just as much to the point. RTFC pointed out that it has more than 2 billion dollars in outstanding loans to rural providers. RTFC then stated its position on reverse auctions:

Reverse auctions (competitive bidding) to determine high-cost universal service funding for incumbent rural local exchange carriers (RLECs) will discourage investment in the rural telecommunications infrastructure and result in lesser quality service to rural Americans. Such a high-cost support regime will cause lenders to reconsider lending into rural telecom space. (Emphasis added.)<sup>25</sup>

When two of the major finance institutions for rural infrastructure issue comments that reverse auctions will increase risk, and thereby increase the cost for rural infrastructure, and lessen the availability of funds to build rural infrastructure, those comments should be paid a great deal of attention. Without the substantial debt financing that CoBank and RTFC provide, rural infrastructure would not be nearly as robust as it is today.

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<sup>23</sup> Comments of CoBank at p. 2, submitted October 10, 2006.

<sup>24</sup> Comments of CoBank at p. 4.

<sup>25</sup> Comments of Rural Telephone Finance Cooperative at p. 2 submitted October 10, 2006.

C. If Reverse Auctions are to be Used at All, Their Introduction Must be Careful and Well-Planned.

The idea of using reverse auctions for high-cost universal service funding is very controversial. A number of commenters in prior filings heavily criticize the use of reverse auctions. For example, some segments of the wireless industry argue that any of the existing auction proposals unfairly favor the incumbent wireline carrier and are inconsistent with the principles embodied in Section 254. These comments argue that auction proposals would lead to regulation of wireless rates and would stifle competition and innovation.<sup>26</sup>

Many of the prior comments have also pointed out the difficulty of designing a functional reverse auction system. As stated in the comments of Consumers Union and Consumer Federation of America: "Though the idea of reverse auctions is appealing from a theoretical standpoint...the idea remains untested and is fraught with potential program design hazards."<sup>27</sup> Consumers Union and Consumer Federation of America go on to point out that some of the problems that are encountered in auction design including a need to design a system where the participants are not encouraged to overbid. Another issue they identify is developing the correct contract length. If contract length of service support is too short, carriers have a reduced incentive to make capital investments or provide high level customer care and support. If the contract term is too long, it locks out innovative competition.<sup>28</sup> Finally, they point to academic research that reverse auctions just do not work.<sup>29</sup>

Some of the prior comments reject the use of reverse auctions. As stated by OPASTCO,

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<sup>26</sup> Comments of Rural Cellular Association and the Alliance of Rural CMRS Carriers at p. 32-37 submitted October 10, 2006. See, also, Comments of United States Cellular Corporation and Rural Cellular Corporation at p. 33-38 submitted October 10, 2006.

<sup>27</sup> Comments of Consumers Union, Consumer Federation of America and Free Press ("Consumers Union, et al.") at p. 53 submitted October 10, 2006.

<sup>28</sup> Consumers Union, et al. at p. 54 submitted October 10, 2006.

<sup>29</sup> Ibid.

“The use of reverse auctions for rural ILECs should be rejected, as they would place at significant risk the continued availability of ‘reasonably comparable’ services and rates to consumers in rural service areas.”<sup>30</sup> OPASTCO goes on to point out that reverse auctions will discourage investment in rural infrastructure and may make obtaining debt financing on reasonable terms more difficult.

NTCA also doubts that reverse auctions are proper. NTCA underscores that “The object of high-cost support is to ensure that consumers in rural areas receive comparable services to those received by urban customers and that they are able to obtain those services at comparable rates.”<sup>31</sup> NTCA describes a reverse auction system as “highly unlikely to achieve this objective.”<sup>32</sup> NTCA goes on to identify the requirement in Section 254 that support be “specific, predictable, and sufficient” and concludes that “support to the lowest bidder is inconsistent with the notions that companies must invest in networks to maintain service and that the evolution of the definition of universal service requires additional and timely investment in new technologies.”<sup>33</sup>

Many of the prior commenters that offer at least tepid support for some form of reverse auction proposal would limit the use of reverse auctions to tests or special circumstances. For example, NASUCA does not see the need for an auction system to be adopted.<sup>34</sup> However, NASUCA argues that if an auction concept is adopted, “a wireless auction should precede a

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<sup>30</sup> Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies at p. 12 submitted October 10, 2006.

<sup>31</sup> National Telecommunications Cooperative Association Initial Comments (“NTCA Comments”) at p. 7-8 submitted October 10, 2006.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> Comments of the National Association of State Utility Consumer Advocates on “Long-Term, Comprehensive High-Cost Universal Service Reform” (“NASUCA Comments”) at p. 7 submitted October 10, 2006.

broader test of the auction process.”<sup>35</sup> In discussing the Verizon auction proposal, NASUCA also agrees with Verizon that there should be an evaluation of the wireless auction process prior to proceeding to broaden the scope of auctions and also agrees that there is a need to evaluate the results of all the tests before broadening the design of the auction.<sup>36</sup> It should be noted that NASUCA does not endorse the Verizon auction concept, but is stating that if a reverse auction system is adopted, the two-step process (wireless first) and the cautions of careful review offered by Verizon are good points to incorporate into such a system. As another example, Consumers Union and Consumer Federation of America support use of auctions only under a pilot program.<sup>37</sup>

In NPRM 08-05, the Commission does not explain how it intends to overcome or address all of these issues that have been raised.

D. Reverse Auctions Should be Limited to Pilot Programs if Used at All.

If reverse auctions are going to be used, perhaps the most appropriate pilot program would be under the Joint Board’s proposed Broadband Fund (if created). This Broadband Fund is to provide capital investment in rural areas that have little or no access to broadband service. It appears to be logical that the Broadband Fund is an arena that if reverse auctions are going to work at all, they will work there. The goal of the reverse auction under the Broadband Fund would be to determine who is willing to engage in new construction in an area to provide a service that does not exist before the auctions are conducted.<sup>38</sup> That is a far different scenario than trying to develop an auction process that can disrupt the existing provision of even basic

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<sup>35</sup> NASUCA Comments at p. 10.

<sup>36</sup> Ibid.

<sup>37</sup> Consumers Union, et al. at p. 55 submitted October 10, 2006.

<sup>38</sup> The Rural Telecommunications Associations recognize that under the Joint Board’s proposal some funding may be available for operation and maintenance. However, the focus is on construction of facilities.

telecommunications service. Market failure in an auction for construction of new broadband facilities would not have the risk of the loss of basic telecommunications services in rural America that a reverse auction for the provision of basic universal service might.

#### **IV. JOINT BOARD RECOMMENDATIONS**

In FCC 08-22, the Commission calls for comments on the recommendations of the Joint Board issued November 20, 2007.<sup>39</sup> In the Recommended Decision, the Joint Board recommends creating three funds: a Broadband Fund, a Mobility Fund and a Provider of Last Resort (“POLR”) Fund. In addition, in a recommendation that the Rural Telecommunications Associations wholeheartedly supports, the Joint Board recommended elimination of the identical support rule. These Comments will address each of the three funds proposed by the Joint Board.

##### **A. Broadband Fund.**

The Joint Board recommends that the Commission revise the current definition of supported services to include broadband Internet service.<sup>40</sup> The Joint Board further recommends that the Broadband Fund be created to support the development of broadband Internet services in unserved areas, targeting support as grants for construction of new facilities in the unserved areas. In addition, some support would be available for grants for new construction to enhance broadband service in areas with substandard service. Finally, there might be some continuing operating subsidies for broadband Internet providers serving areas with such low customer density that would tend to suggest that a plausible economic case cannot be made to operate those broadband facilities absent an operating subsidy.<sup>41</sup>

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<sup>39</sup> In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket 96-45, Recommended Decision, FCC 07J-4 (Released November 20, 2007) (“Recommended Decision”).

<sup>40</sup> Recommended Decision at ¶56.

<sup>41</sup> Recommended Decision at ¶12.

There are concerns about the administration of a Broadband Fund. The details of how the fund would work are not spelled out in the Recommended Decision. The Joint Board recognizes that it is not proposing specific detail.<sup>42</sup> The Joint Board recognizes that defining unserved areas is a difficult task.<sup>43</sup> The Joint Board recognizes that a definition of broadband needs to be developed.<sup>44</sup>

The Joint Board also recommends that the grant program that they describe be administered by the states. The details of how that administration would occur and the recovery of the costs of administration are not addressed by the Joint Board.

The Joint Board also contemplates adoption of policies to encourage states to provide matching funds for the Broadband Fund.<sup>45</sup> If matching funds are going to be an element of the Broadband Fund, the Rural Telecommunications Associations caution that the methodology for determining the requirements for matching funds should not unfairly treat sparsely populated states. For example, the Joint Board discussion references a twenty percent state matching fund. In sparsely populated western states, with long service delivery routes, it may mean on a per capita basis investment in broadband in unserved areas will be higher than in a more populated state. Some weight should be given to per capita, per customer or some other element of investment level that reflects the disparity of the financial impact among the states.

The Joint Board recommendation concerning the Broadband Fund focuses on terrestrial broadband.<sup>46</sup> If there is to be a Broadband Fund, the Rural Telecommunications Associations believe that focus is in the correct place. Latency problems, as well as ultimate speeds,

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<sup>42</sup> See, e.g., Recommended Decision at ¶15.

<sup>43</sup> Recommended Decision at ¶71.

<sup>44</sup> Recommended Decision at ¶72.

<sup>45</sup> Recommended Decision at ¶50.

<sup>46</sup> See, e.g., Recommended Decision at ¶13.

associated with satellite-based broadband would be a concern. In addition, the availability of satellite-based broadband under severe weather conditions, in mountainous regions and in densely forested regions, all conditions which exist in the states represented by the Rural Telecommunications Associations, make satellite-based broadband a problematic solution.

The concept of a Broadband Fund is worth further development. As noted above, there are serious concerns about how a Broadband Fund would be administered. The Rural Telecommunications Associations believe that such a fund must be focused narrowly on broadband infrastructure development in areas that are currently not served with broadband access. There is much work to be done to develop a definition of broadband for purposes of a Broadband Fund and to work out the administrative detail. Care should be taken that a new Broadband Fund does not displace existing programs.

B. Mobility Fund.

The Joint Board's recommended Mobility Fund would be for the dissemination of wireless voice services to unserved areas, focusing primarily on subsidies for construction of new facilities. Some operating subsidies would be available where usage is so slight that a plausible economic case cannot be made to support construction and ongoing operations, even with the construction subsidy.<sup>47</sup> Under the Joint Board's recommendation, states would administer the Mobility Fund, awarding grants on a project-by-project basis.<sup>48</sup> A grant from the Mobility Fund could be made to only one provider in any geographic area.<sup>49</sup> The Rural Telecommunications Associations support the limitation of one wireless ETC per geographic area. Today, there are often three or four wireless ETCs per area. This has presented the

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<sup>47</sup> Recommended Decision at ¶16.

<sup>48</sup> Recommended Decision at ¶18.

<sup>49</sup> Ibid.

situation where wireless carriers receive ETC funding for their preexisting customer bases without making further investment in rural telecommunications infrastructure.<sup>50</sup> There has been little evidence of those multiple wireless carriers using USF high-cost support to improve rural networks.

The Rural Telecommunications Associations support the Joint Board's recommendation to create the Mobility Fund. However, as with a Broadband Fund, the details of the Mobility Fund have not been worked out. The Rural Telecommunications Associations believe that the elements of accountability for the Mobility Fund are very important.

There are other unresolved issues. For example, how states would administer the fund is not specified. Whether the states have the expertise and resources to administer such a fund is not known. The Rural Telecommunications Associations are concerned that conferring such responsibility on state commissions may overly tax already burdened telecommunications staffs at the various state commissions. Further, this would appear to have the makings of an unfunded federal mandate that state commissions may not have budgets to address.

In addition, the standards for ongoing operating grants are not specified. Presumably, with the elimination of the identical support rule, such requests for subsidies would be based on the wireless providers' own costs and the specific economic situation in a particular geographic area.

This also points out that the standards for delineation of unserved areas is not detailed in the Joint Board's recommendation. How these issues are answered are very important factors that must be addressed before the Mobility Fund is put in place.

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<sup>50</sup> The Rural Telecommunications Associations are aware of many instances in which wireless carriers have received USF high-cost support for customers living in areas where there is no coverage from that wireless carrier. The customer subscribes to the wireless carrier for coverage while commuting to a more urban area, not for basic communications needs.

C. The POLR Fund.

The third fund recommended by the Joint Board is the POLR Fund.<sup>51</sup> Essentially, the Joint Board's recommendation is to keep the existing mechanisms in place for high-cost support. The Joint Board recognizes the inherent difficulty of restructuring the existing high-cost support mechanism and states:

The Joint Board does not today offer the outline of any new and unified system for Providers of Last Resort. We have not reached agreement on specific changes to the legacy support mechanism that today provides support for incumbent local exchange carriers (LECs). Therefore, our recommendation is more general.<sup>52</sup>

The Rural Telecommunications Associations fully appreciate the difficulty in addressing the existing high-cost mechanisms. However, other than perhaps some modernization of some elements, there may not be a need to completely restructure the existing mechanisms.

With the creation of a Mobility Fund, the removal of IAS, ICLS and LSS from the calculation of competitive ETC support, and the transition of wireless ETCs from the identical support rule to the Joint Board's Mobility Fund, there should be a significant reduction in the upward pressure on the high-cost funding mechanisms. These reform efforts should be allowed to take place before any significant restructuring of existing high-cost mechanisms is undertaken.

In addition, there is a major aspect of the Joint Board's recommendation that is troubling. That problem is the recommendation to cap the total amount of high-cost funding at 4.5 billion.<sup>53</sup> However, it is not at all clear that a cap is required. The Commission has recognized that the cause of the escalating pressure on the high-cost funds is the support going to CETCs.<sup>54</sup> The removal of the identical support rule should provide immediate relief to much of this upward

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<sup>51</sup> Recommended Decision beginning at ¶19.

<sup>52</sup> Recommended Decision at ¶19.

<sup>53</sup> Recommended Decision at ¶26.

<sup>54</sup> FCC 08-04 at ¶4.

pressure. The drain on the fund will be further reduced by eliminating IAS, ICLS and LSS from the calculation of amount of competitive ETC support. In addition, transitioning wireless ETCs to a Mobility Fund, aimed primarily at new construction, will also significantly reduce pressure on the traditional mechanisms.

The fact that incumbent LECs' draws from the funds have remained steady or even declined over the past few years is not reason to cap the fund. The nature of providing the networks themselves will drive investment levels. With the arrival of more mature networks, support levels can flatten out and, perhaps, decline. If there is a need for further investment to fulfill the goals of universal service, then that obligation should be addressed head on, not by a cap.

In addition, the Joint Board's own discussion in the Recommended Decision tends to indicate that a cap may not be appropriate. For example, the Joint Board points to instances in which the existing mechanisms may not be sufficient. For example, the Joint Board recognizes that the existing mechanisms overlook transport costs which can be significant in very rural areas.<sup>55</sup> The Recommended Decision indicates that there is a split among the Joint Board members as to whether additional funding should be provided as a result of Qwest II.<sup>56</sup>

As a result, it does not appear that implementation of a cap is appropriate until the Commission has had experience with demands on the high-cost fund after removal of the identical support rule, removal of IAS, ICLS and LSS support for competitive ETCs, and the implementation of a Mobility Fund. Trying to address such issues as transport costs and non-rural company support make implementation of a cap too speculative.

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<sup>55</sup> Recommended Decision at ¶21.

<sup>56</sup> See, Recommended Decision at ¶42 discussing Qwest Corp. v. FCC, 398 F.3d 1222 (10<sup>th</sup> Cir. 2005).

## V. CONCLUSION

The Rural Telecommunications Associations urge the Commission to take swift action to eliminate the “Identical Support” rule. While that process is underway, the Commission should immediately remove IAS, ICLS and LSS from the calculation of competitive ETC support.

The Rural Telecommunications Associations do not support the use of reverse auctions to award high-cost fund support. A move to a reverse auction system can be highly dangerous and could easily lead to either (1) higher costs associated with the higher risks that reverse auctions present to serve high cost areas or (2) more underserved or unserved areas, or both. If a reverse auction system is to be initiated, it should be done with a pilot program that is carefully controlled and thoroughly analyzed.

The Rural Telecommunications Associations offer tentative support for a Broadband Fund to support construction of infrastructure in areas without terrestrial broadband access. However, the Rural Telecommunications Associations are very concerned about the lack of detail surrounding such a plan. Since it is true that “the devil is in the details,” the Rural Telecommunications Associations cannot offer a final recommendation on the Broadband Fund until the details are known.

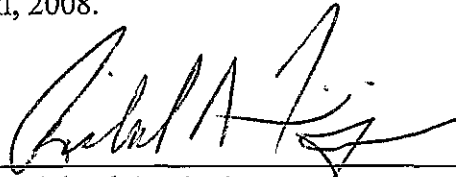
The Rural Telecommunications Associations support the creation of a Mobility Fund, so long as there is a sufficient level of accountability on how the money is spent. The level of accountability should be the same level of accountability that incumbent local exchange carriers drawing from the high-cost funds are subject to today.

Finally, the Rural Telecommunications Associations do support the creation of the POLR Fund, but oppose the imposition of a hard cap on the fund.

Thank you for the opportunity to comment.

Respectfully submitted this 17<sup>th</sup> day of April, 2008.

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Richard A. Finnigan", written over a horizontal line.

Richard A. Finnigan  
Attorney for the Colorado  
Telecommunications Association,  
the Oregon Telecommunications  
Association and the Washington  
Independent Telephone Association

## APPENDIX 1

### Colorado Telecommunications Association

Agate Mutual Telephone Co-Op Association  
Big Sandy Telecom, Inc.  
Blanca Telephone Co.  
CenturyTel  
Columbine Telecom Co.  
Delta County Tele-Com, Inc.  
Dubois Telephone Exchange, Inc.  
Eastern Slope Rural Telephone Association, Inc.  
Farmers Telephone Co., Inc.  
Haxtun Telephone Co.  
Nucla Naturita Telephone Co.  
Nunn Telephone Co.  
Peetz Cooperative Telephone Co.  
Phillips County Telcom  
Pine Drive Telephone Co.  
Plains Cooperative Telephone Association, Inc.  
Rico Telephone Co.  
Roggen Telephone Cooperative Co.  
Rye Telephone Co.  
South Park Telephone Co.  
Stoneham Cooperative Telephone Corp.  
Strasburg Telephone Co.  
Sunflower Telephone Co., Inc.  
Union Telephone Co.  
Wiggins Telephone Association  
Willard Telephone Co.

Oregon Telecommunications Association

Asotin Telephone Company d/b/a TDS Telecom  
Beaver Creek Cooperative Telephone Company  
Canby Telephone Association d/b/a Canby Telecom  
Cascade Utilities, Inc.  
CenturyTel of Oregon, Inc.  
CenturyTel of Eastern Oregon, Inc.  
Clear Creek Telephone & Television  
Colton Telephone Company  
Eagle Telephone System, Inc.  
Gervais Telephone Company  
Helix Telephone Company  
Home Telephone Company d/b/a TDS Telecom  
Midvale Telephone Exchange  
Molalla Communications, Inc. d/b/a Molalla Communications  
Monitor Cooperative Telephone Company  
Monroe Telephone Company  
Mt. Angel Telephone Company  
Nehalem Telecommunications, Inc..  
North-State Telephone Co.  
Oregon-Idaho Utilities, Inc.  
Oregon Telephone Corporation  
People's Telephone Co.  
Pine Telephone System, Inc.  
Pioneer Telephone Cooperative  
Roome Telecommunications Inc.  
St. Paul Cooperative Telephone Association  
Scio Mutual Telephone Association  
Stayton Cooperative Telephone Company  
Trans-Cascades Telephone Company

Washington Independent Telephone Association

Asotin Telephone Company d/b/a TDS Telecom  
CenturyTel of Cowiche, Inc.  
CenturyTel of Inter-Island, Inc.  
CenturyTel of Washington, Inc.  
Ellensburg Telephone Company d/b/a FairPoint Communications  
Hat Island Telephone Company  
Hood Canal Telephone Co., Inc. d/b/a Hood Canal Communications  
Inland Telephone Company  
Kalama Telephone Company  
Lewis River Telephone Company, Inc. d/b/a TDS Telecom  
Mashell Telecom, Inc. d/b/a Rainier Connect  
McDaniel Telephone Co. d/b/a TDS Telecom  
Pend Oreille Telephone Company  
Pioneer Telephone Company  
St. John Co-operative Telephone and Telegraph Company  
Tenino Telephone Company  
The Toledo Telephone Co., Inc.  
Western Wahkiakum County Telephone Company d/b/a Wahkiakum West  
Whidbey Telephone Company  
YCOM Networks, Inc. d/b/a FairPoint Communications